

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**ANGELA K. HUDSON, ET AL.**

**APPELLANTS,**

**v.  
UMB BANK, N.A., TRUSTEE OF A.B.  
HUDSON TESTAMENTARY TRUST**

**RESPONDENT.**

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DOCKET NUMBER WD77008

DATE: August 26, 2014

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Appeal From:

Jackson County Circuit Court  
The Honorable Kathleen A. Forsyth, Judge

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Appellate Judges:

Division Four: Alok Ahuja, Chief Judge, Presiding, Cynthia L. Martin, Judge and Randall R. Jackson, Special Judge

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Attorneys:

Michael J. Gallagher, Kansas City, MO, for appellants.

Clayton T. Norkey, Kansas City, MO, for respondent.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
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**ANGELA K. HUDSON, ET AL.,**

**APPELLANTS,**

**v.**

**UMB BANK, N.A., TRUSTEE OF A.B.  
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**RESPONDENT.**

No. WD77008

Jackson County

Before Division Four: Alok Ahuja, Chief Judge, Presiding, Cynthia L. Martin, Judge and Randall R. Jackson, Special Judge

The lifetime income beneficiaries of four testamentary trusts appeal the trial court's judgment in favor of the trustee in an action that sought to remove the trustee or to modify the trusts to permit easier removal of the trustee. The lifetime income beneficiaries argue that the trial court erred: (1) in concluding that the trusts' principal place of administration is Kansas requiring Kansas law to apply to the determination of their claim seeking removal of the trustee; and (2) in concluding that the trusts are charitable trusts supporting the entry of summary judgment in favor of the trustee on their claim seeking to modify the trusts.

**AFFIRMED**

1. The statutory definition for "principal place of administration" set forth in section 456.1-103(17) expressly provides that the definition controls "unless [a place of administration is] otherwise designated by the terms of the trust as provided in section 456.1-108."

2. The settlor of the testamentary trusts designated the "place of administration" of his trusts pursuant to section 456.1-108.1. In the will creating the trusts, the settlor expressly identified UMB "with an office and place of business in Topeka, Kansas" as the trustee, an unambiguous expression of intent that the trustee would be located in Kansas and that the place of administration of the trusts would be Kansas. This conclusion is reinforced by the settlor's directive that the trustee should have all powers conferred upon trustees by the provisions of Kansas law.

3. Pursuant to section 456.1-108(2), the settlor's designation of Kansas as the place of administration for the trusts is valid and controlling and must be enforced if all or part of the administration of the trusts occurs in Kansas. Here, the evidence plainly established that part of the administration of Hudson's testamentary trusts has at all times occurred in Kansas.

4. Because the settlor properly designated the place of administration of the trusts as Kansas pursuant to section 456.1-108.1, Kansas is the "governing law" applicable to resolve administrative matters relating to the trust, including issues involving removal of the trustee. The trial court thus correctly concluded that the principal place of administration of the trusts is

Kansas for purposes of determining the governing law applicable to administrative matters at issue, although it reached this conclusion for the wrong reasons.

5. Kansas law requires "a substantial change in circumstances" as a condition to removal of a trustee. The lifetime income beneficiaries did not allege, and admit they would be unable to establish, a substantial change in circumstances warranting UMB's removal as trustee pursuant to Kansas law. The trial court thus properly entered judgment in favor of UMB on the claim for removal of the trustee.

6. The trial court properly entered summary judgment in favor of UMB on the lifetime income beneficiaries' claim seeking to modify the trusts because the trusts were charitable trusts under Kansas law, and could not be modified as a matter of law, even with the purported unanimous consent of all beneficiaries, to add a provision permitting a majority of beneficiaries to consent to the removal of the trustee.

Opinion by Cynthia L. Martin, Judge

August 26, 2014

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